

NEBRASKA CRIME VICTIM'S REPARATIONS PROGRAM

Twenty-Second Report

July 1, 2007 - June 30, 2008

July, 2009

Dave Heineman, Governor

*Michael E. Behm, Executive Director
Nebraska Commission on Law
Enforcement and Criminal Justice*

NEBRASKA'S REPORT
on the
CRIME VICTIM'S REPARATIONS PROGRAM

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REPORT ON NEBRASKA'S CRIME VICTIM'S REPARATIONS PROGRAM

INTRODUCTION

All 50 states, plus the District of Columbia, Puerto Rico, the Virgin Islands, and Guam have Crime Victims Reparations' programs. New Zealand and Great Britain established the first compensation programs in the world. A number of European countries, plus Canada, Australia, New Zealand, and Japan also have victim compensation programs fairly similar to those in the United States. The Office of Victims of Crime has identified the following countries as having crime victim compensation programs: Austria, Belgium, Bermuda, Colombia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Great Britain, Hong Kong, Republic of Ireland, Japan, Luxembourg, The Netherlands, Norway, Philippines, Poland, Portugal, Spain, Sweden, Switzerland, and United Arab Emirates.

The Nebraska Crime Victim's Reparations (CVR) Act was created by Legislative Bill 910. The Bill was passed by the Nebraska Legislature in 1978 and became effective January 1, 1979. The operation of the CVR program is governed by Nebraska Revised Statutes 81-1801 through 81-1842 and Rules and Regulations, Title 80, Chapter 1-7.

The purpose of the program is to assist innocent victims of crime with medical expenses, mental health counseling, loss of wages, funeral bills in cases of homicide,

residential crime scene clean-up, loss of earning power, and other expenses directly related to the criminal act. The program now covers Nebraska residents who are victims of terrorism in foreign countries. **Loss of property, pain and suffering, and expenses not directly related to the crime are not covered.** Eligible awards are reduced by any collateral sources received or to be received. Collateral sources include insurance, sick leave pay, workers' compensation, unemployment, etc. A maximum of \$10,000 may be awarded to each claimant.

PROGRAM ADMINISTRATION

The Nebraska Crime Commission is responsible for the administration of Nebraska's CVR program.

Crime Commission staff process the claims for compensation. The processing of claims includes:

- o reviewing each claim for accuracy, completeness, and eligibility;
- o acknowledging receipt of the claim, and requesting additional information if needed;
- o requesting the incident report from the law enforcement agency involved;

- o verifying the expenses being claimed (medical, funeral, loss of wages, etc.) to ensure they are directly related to the criminal act; verifying any payments made toward the expenses and by whom; and determining amounts to be considered for compensation;
 - o verifying criminal charges and the disposition of cases;
 - o preparing a summary of the information for each claim;
 - o submitting all claim information to the Hearing Officer for a determination;
 - o preparing and sending a letter to the claimant regarding the Hearing Officer's decision; and
 - o processing the payments for the awarded claims.
- o If the claim is denied or reduced, the claimant may file a written appeal.
 - o Hearings are conducted by the CVR Committee. The claimant may be present. If the Committee upholds the Hearing Officer's decision to deny, the claimant may appeal in District Court.

REASONS A CLAIM MAY BE DENIED

A claim for compensation will be denied if:

- o the incident was not reported to law enforcement within three days;
- o the claim for compensation was not filed with the CVR program within two years from the date of the incident;
- o the victim did not cooperate with the criminal justice system in the investigation and prosecution of the crime;
- o the victim did not submit the required information to the CVR program; or
- o a victim was not an innocent victim of a crime or the victim's misconduct caused or contributed to the incident.

PROCESSING OF CLAIMS

- o Once all information is received, the claim is investigated.
- o The claim and all information received is reviewed by the Hearing Officer, and the Hearing Officer makes a decision to award, deny or request additional information.
- o The claimant is notified of the Hearing Officer's decision.

APPEALS

If a claim for compensation is denied by the Hearing Officer, the claimant has the right to appeal the decision to the CVR Committee. The appeal must be made in writing and received within 30 days from the date the decision was mailed to the claimant.

The CVR Committee consists of five members of the Nebraska Crime Commission who are appointed by the Governor for a term of four years. Members are reimbursed for actual expenses incurred in the performance of their duties. During fiscal year 07/08, the CVR Committee consisted of the following Crime Commission members: Scott Arnold, Charles Brewster, James Riskowski, Sheriff William Brueggmann, and Chief Scot Ford. In May, 2008 Derek Vaughn was appointed to replace Charles Brewster. If the CVR Committee upholds the Hearing Officer's decision to deny a claim, the claimant may appeal in district court within 30 days of the Committee's action.

FUNDING

The Nebraska CVR program is funded through general fund appropriations, federal compensation funds, and 5 percent of inmates' wages from federally certified correctional industry programs. Beginning in fiscal year 88/89, 5 percent of inmates' salaries earned in the Federal Prison Industries program was transferred to the CVR fund. The amount of funds received from the prison industries program averages \$37,000 per year.

While the CVR program has been operational since 1979, the Legislature did not fund the program during fiscal years 85/86, 86/87, and

87/88, due to a budget shortfall. The stability of the funding of the CVR program continues to remain a problem. In fiscal year 02/03 the general fund appropriation was reduced from \$201,600 to \$20,000. More than 80% of the CVR programs in other states are funded with revenue from court fees or assessments paid by the offenders. In fact, in a large majority of states no tax dollars are used in either the administration or awards given to victims. Previously introduced legislation to establish this type of funding source in Nebraska has not been successful.

The budget for fiscal year 07/08 from all funding sources was \$123,178. In addition, \$8,418 was appropriated for operational expenses.

	<u>Claims Received</u>	<u>Awarded</u>
1979-1985	425	\$455,318
1985-1988	24	Not Funded
FY 88/89	96	\$131,327
FY 89/90	158	\$175,390
FY 90/91	176	\$200,233
FY 91/92	180	\$328,786
FY 92/93	195	\$341,527
FY 93/94	132	\$234,048
FY 94/95	193	\$274,345
FY 95/96	200	\$310,737
FY 96/97	224	\$378,897
FY 97/98	262	\$384,999
FY 98/99	221	\$426,884
FY 99/00	222	\$393,763
FY 00/01	206	\$430,611
FY 01/02	204	\$243,794
FY 02/03	187	\$223,325
FY 03/04	186	\$268,147
FY 04/05	92	\$142,536
FY 05/06	57	\$89,488
FY 06/07	87	\$92,524
FY 07/08	62	\$101,685

FEDERAL FUNDS

The Victims of Crime Act was signed into law by President Reagan in 1984. The Act provides for fines to be levied on offenders convicted of federal crimes. Fifty percent of the funds collected are utilized to assist state compensation programs. The amount to be paid each state is based on 60 percent of the state's non-federal fund disbursements during the previous federal fiscal year. To be eligible for federal funds, certain conditions must be met. Also, programs must comply with statistical reporting requirements.

During fiscal year 07/08, Nebraska received \$30,000 in federal compensation funds. This amount is based on 60 percent of the actual amount of state funds disbursed to crime victims during the 2006/2007 Federal fiscal year. As recently as 2004, Nebraska received \$127,000 in federal funds, but the federal funds decreased in proportion to the decrease in general funds.

ACTIVITIES

Public awareness of the CVR program is provided through the distribution of brochures by law enforcement and prosecutor's agencies, through public speaking engagements and public service announcements, and through the efforts of victim/witness units and domestic violence/sexual assault task forces.

The CVR Committee conducted two Hearings during fiscal year 07/08 for claimants denied by the Hearing Officer.

The Crime Commission is a member of the National and International Association of Crime Victim Compensation Boards, the National Organization for Victim Assistance (NOVA), and the National Association of VOCA Assistance Administrators.

2006 LEGISLATIVE INITIATIVES

Recent legislative efforts since 2005 have attempted to increase revenue for the reparations program by (1) adding a surcharge to court cases and (2) allowing up to 5-1 of inmate's wages from work release programs to be deposited to the reparations cash fund. These efforts have been unsuccessful.

On the following pages is a breakdown of claim activity during fiscal year 07/08.

PROGRAM SUMMARY

Fiscal Year 07/08

PROGRAM SUMMARY
FY 07/08

Claims Pending as of July 1, 2007	15
New Claims Received	56
Supplemental Claims and Resubmitted Claims	3
Appeals	<u>3</u>
TOTAL CLAIMS	77

Claims Considered (Includes 3 resubmitted claims)	64
Claims Awarded	26
Claims Denied	38
Claim Withdrawn	0
Claims Not Eligible	0

Claims Pending as of June 30, 2008	13
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FUNDS EXPENDED

Federal Funds	\$ 41,178.15
General Funds	20,000.00
Prison Industry Funds	<u>59,691.97</u>
Total Expended	\$120,870.12

CLAIM ACTION

Awarded in FY 07/08	\$101,685.47
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PROGRAM SUMMARY CONTINUED - FY 07/08

BREAKDOWN OF AWARDS	
Physicians' Fees	\$ 21,947.49
Hospital Expenses	7,949.76
Dental Expenses	192.00
Prescriptions	354.00
Other Expenses	-0-
Mental Health Counseling	-0-
Loss of Wages	432.00
Funeral Expenses	60,810.22
Loss of Support	10,000.00
Crime Scene Clean Up	-0-
Attorney Fees	-0-
TOTAL	\$101,685.47

PROGRAM SUMMARY CONTINUED - 07/08

CLAIMS AWARDED BREAKDOWN BY TYPE OF CRIME	
Assault	-0-
Assault (Domestic)	6,871.80
Homicide	60,810.22
Sexual Assault - Adult	-0-
Child Sexual Assault/Physical Abuse	-0-
DWI/DUI	-0-
Vehicular	-0-
Stalking	-0-
Robbery	24,003.45
Other	10,000.00
TOTAL	\$101,685.47

PROGRAM SUMMARY CONTINUED - FY 07/08

CLAIMS CONSIDERED BREAKDOWN BY VICTIM'S AGE			
AGE	MALE	FEMALE	TOTALS
0-17	4	2	6
18-64	32	26	58
65+	0	0	0
TOTALS	36	28	64

CLAIMS CONSIDERED BREAKDOWN BY TYPE OF CRIME	
Assault	20
Assault (Domestic)	11
Homicide	20
Sexual Assault - Adult	3
Child Sexual Assault/Physical Abuse	1
DWI/DUI	1
Vehicular	1
Stalking	-0-
Robbery	7
Other	0
TOTAL	64

PROGRAM SUMMARY CONTINUED - FY 07/08

CLAIMS CONSIDERED BREAKDOWN BY VICTIM'S EMPLOYMENT STATUS	
Employed	36
Self-employed	1
Unemployed	19
Retired	1
Disabled	0
Student	6
Child	0
Homemaker	1
TOTALS	64

BREAKDOWN OF CLAIMS BY LEGISLATIVE DISTRICT - FY 07/08

District No./County	Claims Awarded	Claims Denied	Amount of Award
1 Cass, Johnson, Nemaha, Otoe, Pawnee & Richardson	0	0	0.00
2 Cass, Otoe & Sarpy	0	1	0.00
3 Sarpy	0	0	0.00
4 Douglas	0	0	0.00
5 Douglas & Sarpy	0	1	0.00
6 Douglas	1	5	10,000.00
7 Douglas	1	1	10,000.00
8 Douglas	0	1	0.00
9 Douglas	0	0	0.00
10 Douglas	3	2	3,642.54
11 Douglas	7	3	37,364.15
12 Douglas	0	2	0.00
13 Douglas	2	4	3,698.30
14 Sarpy	0	0	0.00
15 Dodge	0	2	0.00
16 Burt, Cuming Stanton, Thurston & Washington	2	0	6,830.00
17 Dakota, Dixon & Wayne	0	0	0.00
18 Douglas & Washington	0	1	0.00
19 Madison	0	2	0.00
20 Douglas	1	3	5,000.00
21 Lancaster & Saunders	0	1	0.00
22 Colfax & Platte	0	0	0.00
23 Bulter, Colfax, Douglas, Sarpy & Saunders	0	1	0.00
24 Polk, Seward & York	0	0	0.00
25 Lancaster	0	0	0.00
26 Lancaster	0	0	0.00
27 Lancaster	0	0	0.00
28 Lancaster	0	0	0.00
29 Lancaster	0	1	0.00
30 Gage & Lancaster	0	0	0.00

BREAKDOWN OF CLAIMS BY LEGISLATIVE DISTRICT - FY 07/08

District No./County	Claims Awarded	Claims Denied	Amount of Award
31 Douglas	1	0	3,186.96
32 Fillmore, Jefferson, Saline & Thayer	0	0	0.00
33 Adams & Hall	0	0	0.00
34 Hall, Hamilton, Merrick, Nance & Polk	0	0	0.00
35 Hall	1	0	670.00
36 Buffalo & Dawson	0	0	0.00
37 Buffalo & Kearney	0	0	0.00
38 Clay, Franklin, Gosper, Harlan, Nuckolls, Phelps & Webster	0	0	0.00
39 Douglas, Sarpy & Washington	0	0	0.00
40 Cedar, Holt, Knox & Pierce	0	0	0.00
41 Antelope, Boone, Garfield, Greeley, Hall, Howard, Sherman, Valley & Wheeler	0	0	0.00
42 Lincoln	2	0	6,228.00
43 Blaine, Boyd, Brown, Cherry, Custer, Holt, Hooker, Keya Paha, Logan, Loup, McPherson, Rock & Thomas	0	0	0.00
44 Chase, Dawson, Dundy, Frontier, Furnas, Hayes, Hitchcock, Perkins & Red Willow	0	0	0.00
45 Sarpy	0	1	0.00
46 Lancaster	0	0	0.00
47 Arthur, Banner, Cheyenne, Deuel, Garden, Keith, Kimball & Morrill	0	0	0.00
48 Scotts Bluff	0	0	0.00
49 Box Butte, Cherry, Dawes, Grant, Scott Bluff, Sheridan & Sioux	0	0	0.00
Out-of-State*	5	6	15,065.52
TOTALS	26	38	\$101,685.47

*Crime occurred in Nebraska, but the claimant's residence is in another state

If a Nebraska resident is victimized in another state, that state's CVR program pays his or her claim if eligible. If the state does not have sufficient funds in its program and the claimant is a resident of Nebraska, then the claimant may submit a claim to the Nebraska Crime Victim's Reparations program.

PROGRAM SUMMARY CONTINUED - 07/08

CLAIMS CONSIDERED BREAKDOWN OF AWARDS BY EXPENSES AND TYPE OF CRIME											
	Physician Fees	Hospital	Dental	Prescriptions	Other	Mental Health	Loss of Wages	Funeral	Loss of Support	Crime Scene Cleanup	Attorney Fees
Assault	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Assault (Domestic)	6,325.80	-0-	192.00	354.00	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Homicide	-0-	-0-	-0-	-0-	-0-	-0-	-0-	60,810.22	10,000.00	-0-	-0-
Sexual Assault-Adult	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Child Sexual Assault/ Physical Abuse	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
DWI/DUI	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Robbery	15,621.69	7,949.76	-0-	-0-	-0-	-0-	432.00	-0-	-0-	-0-	-0-
Other (Attempted Murder)	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
TOTALS	21,947.49	7,949.76	192.00	354.00	0.00	0.00	432.00	60,810.22	10,000.00	-0-	-0-